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| EXAMINER |
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MALEK, LEILA

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| ART UNIT | PAPER NUMBER |
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2611

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12/05/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/517,745 | Applicant(s) BERGLER, EWALD | |
| | Examiner LEILA MALEK | Art Unit 2611 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 09/10/2008 have been fully considered but they are not persuasive.

Applicant's Argument: Applicant argues that modification of Applicant's background of invention in view of Kojima would be unsatisfactory for its intended purpose; therefore there is no suggestion or motivation to make the proposed modification.

Examiner's Response: Examiner respectfully disagrees. Examiner asserts that it is always desirable in communication systems to reduce the distortions of the signal. As cited in the last office action by modifying Applicant's background of invention as taught by Kojima, the distortions in the communication system can be corrected (see column 1, lines 1-18). Therefore, it would have been obvious to one of ordinary skill in the art to modify Applicant's background of invention as suggested by Kojima.

Applicant's Argument: Applicant argues that if the data carrier 1 of AAPA is modified to include the waveform shaping apparatus 11 and the low-pass filter 13 of Kojima the signal applied to the modulation means 11 of the data carrier 1 of AAPA would have more than two levels and the modified data carrier will be rendered unsatisfactory for its intended purpose.

Examiner's Response: In response to the above argument, Examiner asserts that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the

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test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Therefore, the combination of references does not suggest bodily incorporating the waveform shaping apparatus 11 and the low-pass filter 13 of Kojima into the apparatus disclosed in the background of invention. Instead the combination is suggesting incorporating a waveform shaping apparatus and a low-pass filter to correct the distortions of the communication system. Hence Applicant's Argument is not persuasive.

Applicant's Argument: Applicant argues that the amended claim 10 is not obvious in view of AAPA, Kojima, and Umehara.

Examiner's Response: Examiner respectfully disagrees. As to claims 10 and 11, Umehara discloses an apparatus (see Fig. 1 and column 3, last paragraph) comprising a waveform shaper 10 which is an integrating circuit consisting of a capacitor 42 and a resistor 43 and a modulator 13 comprising transistor 25. Umehara further shows that resistor 43 is directly (see Fig. 1 and column 3, last paragraph) connected to the control terminal of the transistor 25 of the modulation means 13 and a capacitor 42 is directly connected to the control terminal of the transistor 25 (see Fig. 1 and column 3, last paragraph) of the modulation means 13 and ground. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Applicant's background of invention and Kojima as suggested by Umehara to alternately keep the transistor in the cut-off state and the saturation state repeatedly (see column 3, last paragraph).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (background of invention), in view of Kojima et al. (hereafter, referred as Kojima) (US 4,646,327).

As to claims 1 and 5, Applicant in the background of invention discloses a data carrier 1 (see Fig. 1), which is designed to modulate a carrier signal (CS) that can be received in a contactless manner (see page 4), and which is equipped with transmission means (2), designed to transmit the carrier signal, and which is equipped with an electrical circuit (3), which circuit is equipped with at least one terminal (4,5), to which terminal the transmission means (2) is connected and via which terminal (4) the carrier signal can be fed to the circuit (3), and which circuit (3) is equipped with a data signal source (9) designed to generate and emit a data signal (see page 5) having only two voltage values (see page 5, lines 9-13), and which circuit is equipped with modulation means (11) designed to receive the data signal and, using the data signal, to modulate the carrier signal occurring at the at least one terminal, and to generate an amplitude-modulated signal (see page 5, line 21) inherently having only two amplitudes (since the signal is a digital signal, the values are (0,1) or (1,-1)), in which amplitude-modulated signal, signal edges occur (see page 5, line 34). Applicant in the background of

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invention discloses all the subject matters claimed in claims 1 and 5, except that the signal-edge influencing means provided in the circuit, which is designed to influence the slope characteristic of the signal edges in the amplitude-modulated signal. Kojima discloses a communication system comprising a waveform shaping apparatus of Fig. 1. Kojima discloses that the data transmitting-receiving device has an input terminal 10 to which digital data from an information source is supplied, a waveform shaping apparatus 11 connected between terminal 10 and D/A converter 12 which supplies its output through a low-pass filter 13 to an amplitude modulator 14 and band-pass filter 15 through which the output of modulator 14, is applied to a transmission line (see column 2, lines 50-60) (since both waveform shaping apparatus 11 and LPF 13, inherently influence the slope characteristic of the signal edges, therefore the combination of 11 and 13 has been interpreted as the signal-edge influencing means). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Applicant's background of invention as taught by Kojima to correct the distortions in the communication system (see column 1, lines 1-18).

As to claims 2 and 6, Kojima further discloses that the signal-edge influencing means 11 and 13 is realized by filtration means (see column 2, lines 50-60). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Applicant's background of invention as taught by Kojima to correct the distortions in the communication system (see column 1, lines 1-18).

As to claims 3 and 7, Kojima further discloses that the filtration means 11 and 13 is provided between the data signal source (not shown, however it is located before

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waveform shaping apparatus (see column 2, lines 50-60)) and the modulation means 14 and designed to filter the data signal that can be emitted from the data signal source to the modulation means. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Applicant's background of invention as taught by Kojima to correct the distortions in the communication system (see column 1, lines 1-18).

As to claims 4 and 8, Kojima further discloses that the filtration means is formed by a low-pass filter 13 (see column 2, lines 50-60). It would have been obvious to one of ordinary skill in the art at the time of invention to modify Applicant's background of invention as taught by Kojima to correct the distortions in the communication system (see column 1, lines 1-18).

As to claim 9, Applicant in the background of invention discloses that the circuit (3) is realized as an integrated circuit (see page 4, line 20).

3. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art and Kojima, further in view of Umehara (US 4,118,739).

As to claims 10 and 11, Applicant's admitted prior art and Kojima disclose all the subject matters claimed in claims 5 and 1, except that the modulation means includes a transistor with a control terminal, and the signal-edge influencing means includes a resistor connected to the control terminal of the transistor and a capacitor connected to the control terminal of the transistor and ground. Umehara discloses an apparatus (see Fig. 1 and column 3, last paragraph) comprising a waveform shaper 10 which is an integrating circuit consisting of a capacitor 42 and a resistor 43 and a modulator 13

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comprising transistor 25. Umehara further shows that resistor 43 is directly (see Fig. 1 and column 3, last paragraph) connected to the control terminal of the transistor 25 of the modulation means 13 and a capacitor 42 is directly connected to the control terminal of the transistor 25 (see Fig. 1 and column 3, last paragraph) of the modulation means 13 and ground. It would have been obvious to one of ordinary skill in the art at the time of invention to modify Applicant's background of invention and Kojima as suggested by Umehara to alternately keep the transistor in the cut-off state and the saturation state repeatedly (see column 3, last paragraph).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leila Malek whose telephone number is 571-272-8731.

The examiner can normally be reached on 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on 571-272-3021. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Leila Malek
Examiner
Art Unit 2611

/L.M./
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/Mohammad H Ghayour/
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